

Environmental Protection Agency

§ 1068.405

standards, then it must be covered by a certificate or a different exemption before you introduce it into commerce.

[67 FR 68347, Nov. 8, 2002, as amended at 70 FR 40516, July 13, 2005]

§ 1068.335 What are the penalties for violations?

(a) *All imported engines.* Unless you comply with the provisions of this subpart, importation of nonconforming engines violates sections 203 and 213(d) of the Act (42 U.S.C. 7522 and 7547(d)). You may then have to export the engines, or pay civil penalties, or both. The U.S. Customs Service may seize unlawfully imported engines.

(b) *Temporarily imported engines.* If you do not comply with the provisions of this subpart for a temporary exemption under § 1068.325 or § 1068.330, you may forfeit the total amount of the bond in addition to the sanctions we identify in paragraph (a) of this section. We will consider an engine to be exported if it has been destroyed or delivered to the U.S. Customs Service for export or other disposition under applicable Customs laws and regulations. EPA or the U.S. Customs Service may offer you a grace period to allow you to export a temporarily exempted engine without penalty after the exemption expires.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39270, June 29, 2004; 70 FR 40516, July 13, 2005]

Subpart E—Selective Enforcement Auditing

§ 1068.401 What is a selective enforcement audit?

(a) We may conduct or require you to conduct emission tests on your production engines in a selective enforcement audit. This requirement is independent of any requirement for you to routinely test production-line engines.

(b) If we send you a signed test order, you must follow its directions and the provisions of this subpart. We may tell you where to test the engines. This may be where you produce the engines or any other emission testing facility.

(c) If we select one or more of your engine families for a selective enforcement audit, we will send the test order

to the person who signed the application for certification or we will deliver it in person.

(d) If we do not select a testing facility, notify the Designated Officer within one working day of receiving the test order where you will test your engines.

(e) You must do everything we require in the audit without delay.

[69 FR 39270, June 29, 2004]

§ 1068.405 What is in a test order?

(a) In the test order, we will specify the following things:

(1) The engine family and configuration (if any) we have identified for testing.

(2) The engine assembly plant, storage facility, or (if you import the engines) port facility from which you must select engines.

(3) The procedure for selecting engines for testing, including a selection rate.

(4) The test procedures, duty cycles, and test points, as appropriate, for testing the engines to show that they meet emission standards.

(b) We may state that we will select the test engines.

(c) We may identify alternate engine families or configurations for testing in case we determine the intended engines are not available for testing or if you do not produce enough engines to meet the minimum rate for selecting test engines.

(d) We may include other directions or information in the test order.

(e) We may ask you to show us that you meet any additional requirements that apply to your engines (closed crankcases, for example).

(f) In anticipation of a potential audit, you may give us a list of your preferred engine families and the corresponding assembly plants, storage facilities, or (if you import the engines) port facilities from which we should select engines for testing. The information would apply only for a single model year, so it would be best to include this information in your application for certification. If you give us this list before we issue a test order, we will consider your recommendations, but we may select engines differently.

(g) If you also do routine production-line testing with the selected engine family in the same time period, the test order will tell you what changes you might need to make in your production-line testing schedule.

§ 1068.410 How must I select and prepare my engines?

(a) *Selecting engines.* Select engines as described in the test order. If you are unable to select test engines this way, you may ask us to approve an alternate plan, as long as you make the request before you start selecting engines.

(b) *Assembling engines.* Produce and assemble test engines using your normal production and assembly process for that engine family.

(1) Notify us directly if you make any change in your production, assembly, or quality control processes that might affect emissions between the time you receive the test order and the time you finish selecting test engines.

(2) If you do not fully assemble engines at the specified location, we will describe in the test order how to select components to finish assembling the engines. Assemble these components onto the test engines using your documented assembly and quality control procedures.

(c) *Modifying engines.* Once an engine is selected for testing, you may adjust, repair, prepare, or modify it or check its emissions only if one of the following is true:

(1) You document the need for doing so in your procedures for assembling and inspecting all your production engines and make the action routine for all the engines in the engine family.

(2) This subpart otherwise allows your action.

(3) We approve your action in advance.

(d) *Engine malfunction.* If an engine malfunction prevents further emission testing, ask us to approve your decision to either repair the engine or delete it from the test sequence.

(e) *Setting adjustable parameters.* Before any test, we may adjust or require you to adjust any adjustable parameter to any setting within its physically adjustable range.

(1) We may adjust or require you to adjust idle speed outside the physically adjustable range as needed until the engine has stabilized emission levels (see paragraph (f) of this section). We may ask you for information needed to establish an alternate minimum idle speed.

(2) We may make or specify adjustments within the physically adjustable range by considering their effect on emission levels, as well as how likely it is someone will make such an adjustment with in-use engines.

(f) *Stabilizing emission levels.* Before you test production-line engines, you may operate the engine to stabilize the emission levels. Using good engineering judgment, operate your engines in a way that represents the way production engines will be used. You may operate each engine for no more than the greater of two periods:

(1) 50 hours.

(2) The number of hours you operated your emission-data engine for certifying the engine family (see 40 CFR part 1065, subpart E).

(g) *Damage during shipment.* If shipping an engine to a remote facility for testing under a selective enforcement audit makes necessary an adjustment or repair, you must wait until after the initial emission test to do this work. We may waive this requirement if the test would be impossible or unsafe, or if it would permanently damage the engine. Report to us, in your written report under § 1068.450, all adjustments or repairs you make on test engines before each test.

(h) *Shipping engines.* If you need to ship engines to another facility for testing, make sure the test engines arrive at the test facility within 24 hours after being selected. You may ask that we allow more time if you are unable to do this.

(i) *Retesting after invalid tests.* You may retest an engine if you determine an emission test is invalid under the standard-setting part. Explain in your written report reasons for invalidating any test and the emission results from all tests. If you retest an engine and, within ten days after testing, ask to substitute results of the new tests for